

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

| | | |
|------------------------------------|---|----------------------------------|
| ITV DIRECT, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| HEALTHY SOLUTIONS, L.L.C., et al., |) | |
| |) | |
| Defendants. |) | Civil Action No. 04-CV-10421-JLT |
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| CAPPSEALS, INC., |) | |
| |) | |
| Plaintiff-in-Intervention, |) | |
| |) | |
| v. |) | |
| |) | |
| HEALTHY SOLUTIONS, L.L.C., d/b/a |) | |
| DIRECT BUSINESS CONCEPTS; ITV |) | |
| DIRECT, INC.; and DIRECT |) | |
| FULFILLMENT, LLC, |) | |
| |) | |
| Intervenor-Defendants. |) | |
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**PLAINTIFF-IN-INTERVENTION'S MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to FED. R. CIV. P. 56, Plaintiff-in-Intervention Cappseals, Inc. ("Cappseals") moves for partial summary judgment in its favor and against Defendant/Intervenor-Defendant Healthy Solutions, L.L.C., d/b/a Direct Business Concepts on its claims for contract, action on account, account stated and reach and apply. In addition, Cappseals moves for partial summary judgment in its favor and against Plaintiff/Intervenor-Defendant ITV Direct, Inc. on its claim for reach and apply.

This motion is supported by a memorandum of law, a concise statement of material facts, the Affidavit of Harry A. Anderson III, and the entire court file herein.

CONCLUSION

For the foregoing reasons, and the reasons stated in its accompanying papers, Cappseals respectfully requests that the Court grant its requests for partial summary judgment.

Respectfully submitted,
CAPPSEALS, INC.
By its attorney,

/s/ Daniel J. Kelly
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DATED: June 24, 2004

Local Rule 7.1 Certification

I, Daniel J. Kelly, hereby certify that counsel for the Plaintiff-in-Intervention has attempted to confer with opposing counsel to resolve in good faith or narrow the issues raised in this motion.

/s/ Daniel J. Kelly

Daniel J. Kelly, Esq.